EXHIBIT E6

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

RICARDO RIMONDI and PILAR RIMONDI,
Plaintiffs,
vs.
BASF CATALYSTS LLC, et al.,
Defendants.
DOCKET NO. MID-L-2912-17

JOANNA RUMAN and JACENTY RUMAN,
Plaintiffs,
vs.
BASF CATALYSTS LLC, et al.,
Defendants.
DOCKET NO. MID-L-2919-17

DEPOSITION OF

WILLIAM E. LONGO, PhD

January 7, 2019

10:30 a.m.

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nonsensical definition to be asbestiform. So we know the bundles are asbestiform, we have sources for that.

Now we're dealing with the single fibers. I don't believe it's reasonable to say 10 percent of the single fibers from these mine sources are unknown when you have all these other bundles. I don't think it's reasonable to say that the average aspect ratio from ground talc on tremolite that we find in these samples are the same as what Blount found as well as Campbell found as well as Langer found, saying these are all asbestiform with that aspect ratio. So that's my opinion, that these are asbestiform.

Q. Okay. So if I asked you in 2016 what your definition of asbestiform was, what would you have said?

MR. HORN: Object to form. Vague and ambiguous.

THE WITNESS: I don't know.

Q. (By Mr. Ewald) If you have used the word asbestiform in prior transcripts before talc litigation -- I'll withdraw that.

The definition you gave today of asbestiform, is that the definition that you have used the entire time that you have been testifying in

cosmetic talc litigation?

A. **I think what I've stated in the past is that for single fibers you can't tell if it's asbestiform or not based on the definition. But we're not looking just at a single fiber. We're looking at multiple fibers and bundles.**

So you have the geological definition of asbestiform, and then you just have is it fibrous, therefore it's asbestiform.

Q. Under the if it's fibrous, therefore it's asbestiform version, in your view you can determine that a single fiber is asbestiform; is that your view?

A. **A single fiber in one sample, yes, if it's fibrous, it's asbestiform. It does not meet the definition of a geological grab sample because the definition of asbestiform provides you all these different tests that are not applicable and don't give you any measurement ability to measure high tensile strength. Don't even tell you what high tensile strength is. You can't measure flexibility. You can't measure -- you can't measure any of that with any of the protocols. And these are fibers that are regulated asbestos fibers. My definition is they're all asbestiform. Others can argue with that.**

MR. EWALD: Promise to not spend too much time on 22262-1 today, but I have just a couple of questions. So as Exhibit 9, we're going to mark ISO 22262-1.

(Defendant's Exhibit 9 was marked for identification.)

Q. (By Mr. Ewald) Doctor, this ISO 22262-1 is one of the methods you used in connection with your November 14th, 2018, report; is that correct?

A. **That is correct.**

Q. You've been asked for --

A. **2.8?**

Q. -- about 2.8. I'm not going to go back there, at least immediately.

Am I correct that you referred to 2.8 on page 2, definition of asbestiform as, quote, a general definition; is that right?

A. **That's correct.**

Q. Okay. Let's go to page 23, and that is carryover of 7.2.3.7.1, morphology. Let me know when you get to 23.

A. **I have it.**

Q. Okay. Do you agree with me that ISO 22262-1 distinguishes in this section between asbestiform amphibole fibers and nonasbestiform

amphibole fibers?

MR. HORN: Can I have that question read back? I was actually reading the protocol.

(Record was read by the court reporter.)

MR. HORN: Thank you.

THE WITNESS: Yes. This is intended as guidance for analysts to discriminate -- from the note on page 23 -- between nonasbestiform and asbestiform amphibole populations. It is not intended to override the definition of asbestos as presented in 2.9 nor override any national regulation.

So according to that, it is guidance to the analyst.

Q. (By Mr. Ewald) Okay. You can keep that close by. We'll come back to it maybe.

I want to talk a little bit about Mr. Poye.

A. **Sure.**

MR. EWALD: Let's mark this as Exhibit 10.

(Defendant's Exhibit 10 was marked for identification.)

Q. (By Mr. Ewald) Doctor, as Exhibit 10, handing you what is -- it's got a couple pages at the beginning. Can you describe what those first couple

pages are?

A. The chain of custodies for the samples we sent him. I think there's 50 -- 79. These are the chain of custodies for the 79 samples we sent him. Also in the chain of custody is the key because we sent them as blind, meaning we generated a number 68708, 1 through 79, and then the corresponding MDL samples that we have. And then on the back -- on another page has his numbers, then the actual MDL samples that were sent.

Q. Am I correct after that you have Mr. Poye's July 18th, 2018, report to you on the MAS split of historic talc samples?

A. Correct.

Q. And have you seen this before?

A. Of course.

Q. Just making sure.

Now, when was the last time you spoke to Mr. Poye about the testing reflected in his July 18th, 2018, report?

A. Some months. I don't remember the last time I talked to him about it.

Q. Do you recall whether or not it was before or after he sent you this work?

A. No, I don't recall.

Q. What do you recall about that communication?

A. I don't recall any of it.

Q. Was it by phone? In person? Email?

A. I'm sure it would have been by phone. I know I talked to him about sending the samples. Have I talked to him about the results or not, I don't have any recollection of that.

Q. Have you communicated with anyone other than Mr. Poye at his lab, J3, about the testing that is reflected in his July 18th report?

A. Not that I recall.

Q. There was some confusion, I believe, during --

A. Chain of custody of the spike samples?

Q. Actually, that wasn't where I was going but --

A. Everybody seems to have confusion on that, and I still have to get the chain of custody to explain how the numbers work on the spike samples. But I shouldn't cut you off and generate more questions.

Q. Exactly. I was going there next.

Actually, it seemed to be unclear during the Leavitt depositions about what method Lee Poye

used with respect to PLM, and I would like you to turn to --

A. Used the ISO method.

Q. Okay. It's your understanding that he used the ISO 22262-1 method?

A. Correct. And the confusion came in where the original XRD samples I sent him for those 30 samples, I believe that was the R-93 method. I just got them mixed up in my head. I could have just looked at the document and stated it correctly.

Q. Do you have an understanding as to why J3 used ISO 22262-1 as opposed to R-93 for the PLM work?

A. I'll have to let Lee Poye speak to that. It looks like to me just standardizing the protocol since there is both an ISO PLM for talc as well as an ISO TEM for talc.

Q. So I asked Lee Poye that.

A. What did he say?

Q. Mr. Poye said that his recollection is that you told him to use ISO 22262-1. Do you have any recollection of that?

A. It's possible. I just don't recall that.

Q. Do you see on -- it's the cover letter to the report on top of page 2, at the top, first full sentence, J3 was directed to analyze the talcum

powder samples for the presence and percentage of regulated asbestos utilizing the following appropriate methods, and one of the methods there that's listed is ISO 22262-1; do you see that?

A. I do see that. Now, if that's Mr. Poye's recollection, I have no reason to dispute that.

Q. I take it, then, you have not reviewed Mr. Poye's deposition in the Lovett case relating to testing of the samples reflected in the July 18th report?

A. I have not.

Q. Do you have any knowledge about J3's testing of the MDL samples beyond what is reflected in this July 18, 2018, report?

A. I don't think so.

Q. Let me toggle between a couple of reports now. I'll keep the Lee Poye one close by, but if you'll look at your November report, on page 16 there's a reference to the comparing of -- well, let me take a step back.

Can you please explain what you asked Lee Poye's lab, J3, to do with respect to the 79 samples that you sent them.

A. Well, it looks like I asked them to analyze it by the ISO 22262-1 protocol for PLM and

XRD.

Q. And then, at least as of the time of this report, this report being the November 14th report, J3 and MAS had analyzed 22 of same samples by ISO PLM that MAS had; is that correct?

A. That's correct.

Q. And the statement here at the bottom that J3 did not find any asbestos detected in those 22 samples, while MAS found asbestos in eight of the 22 samples using the ISO PLM method, is that the correct statement?

A. That is a correct statement.

Q. And then it goes on to state, These different results between the two labs will require further investigation to understand the reason for these differences.

Did I read that correctly?

A. You did.

Q. As of day 3 of Leavitt, I think this was asked -- maybe it was day two --

A. Or day one --

Q. There had not been any steps taken at that point in time on this question of investigating the different results. Have there since been any efforts by MAS or efforts you're aware of from J3 to

investigate the different results reached on those 22 PLM samples?

A. We haven't done anything further. May develop some standards at the lower detection limit and have a blind round-robin between the two analysts to see how consistent they are.

But other than that, I don't have any other information that I can share for the reason for the eight positives versus the eight negatives by J3.

Q. So as you sit here today, do you have any basis to understand why two labs using the same method and the same samples reached different results in eight cases?

A. For eight samples? No.

Q. Do you know who did the PLM work at J3?

A. Other than it's their PLM analyst, I can't remember that individual's name right at the moment.

Q. Without remembering his or her name, do you know if you met that person before?

A. I've been to their lab. I don't know if I met him or not.

Q. It's your recollection it's a he, not a she?

A. To my recollection it's a he.

Q. I think we're done with Poye, at least for

now, and can set that aside.

Going back to your November report, what role did Dr. Rigler play in this report?

A. He helped edit and review the data so that he was one of the QC people.

Q. Why did you ask J3 to perform the ISO PLM on the same samples that MAS was testing with ISO PLM?

MR. HORN: Object to form.

THE WITNESS: They had initially done a number of the ISO PLM. We had sent off the samples for the original 30 and, just to be consistent, wanted to see the difference between the two labs that used that method. And of course the XRD, we don't have an XRD. So it just was interesting to me.

Q. (By Mr. Ewald) Trying to get a sense of, essentially, the workflow for the November 14th testing -- with respect to the testing reflected in the November 14th report at MAS, and there are a number of different test methods that are described there that MAS conducted. Do you have a sense of how that played out, whether it was all done in the same order with respect to a particular sample? Can you give some explanation of that?

A. When you say a particular order --

Q. So, for example, you have one of the 56 samples there that MAS tested by ISO PLM, Blount PLM, and TEM; right?

A. Correct.

Q. For each sample was the analysis done in a particular order with respect to the type of testing, or was it just done in whatever order it happened?

A. Well, there's two different groups that are doing the testing, so you have the PLM group and then the TEM group. Typically we don't -- we're not trying to do one before the other because they're two separate groups. And irrespective of the ISO 22262-1, which says you should do the PLM first, somebody's already asked that because some of the PLMs -- was it you?

Q. Yeah, that would be me.

A. It was a good question. A good question in that I believe the reason for that is instead of fully characterizing these cosmetic talcs like we're doing, if you find it by PLM and it meets the definition, probably what I believe -- I should email Dr. Chatfield -- Eric -- one of these days -- is that there's really no need to go any further if you're just trying to determine if there's asbestos or not

14:30:47 **present.**
14:30:47 **There's four TEM analysts. Whatever they**
14:30:50 **seem to be working on, some will take samples -- say**
14:30:54 **we have 22 samples. Some may be working from 22 on**
14:30:59 **down, some may be grabbing in the middle. It's just**
14:31:02 **whoever's free and what's available, what's been**
14:31:05 **prepared. At the end of the day then we're just**
14:31:10 **trying to put them all together. However, I'll give**
14:31:15 **you credit now trying to get the PLM analysts to get**
14:31:19 **ahead of the TEM guys.**
14:31:22 **Q.** Have you communicated with Dr. Chatfield
14:31:25 in any way about his -- not his -- about ISO 22262-1?
14:31:33 **A. Well, to give Dr. -- Eric credit, it's**
14:31:37 **basically his.**
14:31:38 **Q.** The answer to my question is yes or no?
14:31:40 **A. No, I have not talked to Eric. I haven't**
14:31:43 **seen him in a while. He is a world of knowledge.**
14:31:51 **Q.** Do you agree that it's common for
14:31:57 independent labs to design standard operating
14:32:00 procedures for companies analyzing asbestos in their
14:32:03 products?
14:32:05 **A. Is it standard operating procedure --**
14:32:10 MR. HORN: Let me just object to form.
14:32:12 It's vague and ambiguous.
14:32:13 THE WITNESS: And I'm just trying to

14:32:15 clarify, so that if a company comes and says
14:32:17 develop a protocol for me, I mean, we've done
14:32:20 that once. We did it for Federal-Mogul for when
14:32:24 they came into an accessory mineral tremolite
14:32:27 issue with their brake shoes.
14:32:35 So I can't speak for other labs. What I
14:32:38 know is that we had developed a protocol for
14:32:41 them, and I guess they -- if you go on Google,
14:32:46 you can get it.
14:32:46 **Q.** (By Mr. Ewald) And did that relate to
14:32:51 analyzing raw wollastonite?
14:32:56 **A. It did.**
14:32:57 **Q.** And that was with PLM?
14:32:59 **A. It was a combination, but primarily PLM**
14:33:04 **after we went through a concentration method.**
14:33:07 **Because of the concentration that was being found in**
14:33:09 **there, you only needed PLM.**
14:33:14 **Q.** And that one, the SOP used R-93?
14:33:20 **A. Yes, I believe so. I haven't seen that**
14:33:24 **SOP in a while, and you're probably looking at it.**
14:33:33 **Q.** So you don't have a sense one way or the
14:33:53 other, apart from your own lab, about how often that
14:33:56 happens in the industry with respect to other labs?
14:33:59 **A. No. Obviously, I'm aware that the McCrone**
14:34:04 **TEM method is identical to Johnson & Johnson's 7024.**

14:34:12 **I'm assuming McCrone is the ones that developed a**
14:34:15 **method that was adopted by Johnson & Johnson.**
14:34:23 **Outside of that, I really don't have a**
14:34:25 **sense on what other commercial laboratories have done**
14:34:27 **for clients.**
14:34:28 **Q.** And you don't hold the opinion that the
14:34:31 McCrone and Millette method was designed as a rigged
14:34:37 test, do you?
14:34:37 **A. As a what?**
14:34:38 **Q.** As a rigged test.
14:34:39 **A. I don't know what rigged means. I don't**
14:35:12 **know what McCrone was thinking.**
14:35:17 **Only issue I have with all those methods**
14:35:19 **is that there seems to be a lack of understanding on**
14:35:22 **just how much asbestos -- regulated asbestos meeting**
14:35:29 **definitions has to be in the sample before you call**
14:35:32 **it a positive sample.**
14:35:35 **And as I've progressed through this work,**
14:35:37 **the weight percents -- and that's the other problem I**
14:35:41 **have, is the theoretical weight percent detection**
14:35:47 **limits.**
14:35:48 **Where the disconnect on that is our**
14:35:52 **detection limit is based on one small fiber, and it's**
14:35:58 **like looking at the FDA 2010 data from AMA, and I**
14:36:04 **think they gave a detection limit of 2.0 times 10 to**

14:36:09 **the minus 6 weight percent because they're detecting**
14:36:13 **one fiber. Well, you have to understand in order to**
14:36:16 **detect that one fiber for the TEM method that AMA was**
14:36:20 **looking at, you have to have something like 12**
14:36:23 **million fibers before, statistically, you may run**
14:36:26 **across one fiber.**
14:36:28 **So the method is the method. I'll let**
14:36:31 **others decide if it's, quote, rigged or not. But you**
14:36:36 **can't use that method and say there's nothing in the**
14:36:45 **talc. That's my only issue with it.**
14:36:47 **Q.** Have you reviewed any reports from
14:36:49 Dr. Sanchez that he recently released relating to the
14:36:53 MDL samples?
14:36:54 **A. Yes, I have.**
14:36:55 **Q.** Do you recall which reports you reviewed?
14:36:59 **A. I understand he has them all, but I think**
14:37:02 **the first ten or so, which were the ten samples from**
14:37:06 **Vermont where he says all the anthophyllite that --**
14:37:15 **well, the anthophyllite series that we identified is**
14:37:19 **all nonasbestos -- is all cleavage fragment**
14:37:26 **cummingtonite.**
14:37:27 **Q.** What's your response to that?
14:37:29 **A. Well, my comments are, one, it's unclear**
14:38:08 **to me why he used electron backscatter detection for**
14:38:20 **determining the crystalline structure. What he did**

asbestos, and that would be more accurate for the detection limit for weight percent.

I don't mean to be thinking out loud, but I think in the supplement report that's something we can do. That way you're not picking something. You say, okay, for this I measured 60 or 70 asbestos structures and it came from the Vermont mine and here's the average length and width, so I'm going to use that for the analytical sensitivity.

I don't mean to come up with an idea sitting here.

MR. HORN: Just created more work.

THE WITNESS: It's the nerd in me, I guess.

Q. (By Mr. Horn) And just so it's clear for the record, the analytical sensitivity, when you use it with a weight percentage, is that just dictated by the protocol that you're using? Or when would you use that versus something else?

A. **Well, most of these protocols call for a weight percent. But in order to have a weight percent, you have to count all the number of fibers and structures that are in there. So it's literally how you report it.**

Nothing changes how you collect the data.

So any of these TEM count sheets, you would take the average length and width of everything in there for these weight percents that we have reported.

For example, Table 4, we found a concentration of 53,000 asbestos structures per gram. That number of fibers that made that 53,000 is the same number of fibers that you would do the exact same calculations. Instead of fibers per gram, it's going through and measuring every length, every width, and typically they end up in picograms of some amount, and that's added all up, and then you go through the exact same calculations that you go through to determine how many fibers or bundles per gram. It's just the way they express the data.

In my opinion, it is better to have fibers and bundles per gram, because if you measure an exposure, it's always fibers per cubic centimeter of air. It's not weight percent of a cubic centimeter of air. That's been shown to be completely inaccurate, and it doesn't tell you anything about your potential exposure.

That's why I believe the fibers per gram or fiber bundles per gram is important, because it gives you some idea of the potential for exposure when measuring fibers per cc.

MR. HORN: That's all I have.

MR. EWALD: I'm just going to put on the record, Ethan, I just haven't seen the letter or the back and forth you referenced about Leavitt. I don't need to reserve any rights, but I'm not familiar with it so I just wanted to make note of it in case people take issue with it.

MR. HORN: We sent a link out that contained a lot of materials, and it's tucked in there.

MR. EWALD: All right.

MR. HORN: Before we go, let me just email it to both of you.

(Deposition concluded at 4:00 p.m.)

(Pursuant to Rule 30(e) of the Federal Rules of Civil Procedure and/or OCGA 9-11-30(e), signature of the witness has been reserved.)

(Original transcript sent to McCarter & English, LLP.)

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COUNTY OF GWINNETT:

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This, the 10th day of January 2019.

_____

DEBRA R. LUTHER, B-881
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____
Notary Public
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